

PATENT**REMARKS:**

At the time of the Office Action, claims 1-21 were pending and considered by the Examiner. Claims 7-11, 16 and 19 were withdrawn as being directed to a non-elected species. Claims 1-4, 17, 18, 20 and 21 stand rejected. Claims 5, 6, 12 and 13 stand objected to. Pursuant to this Amendment, claims 1-21 remain pending in the subject application.

It is noted that claims 5, 6, 12 and 13 have been found to contain allowable subject matter. However, these claims have not been rewritten into independent form at this time because the underlying claims are argued to be allowable as explained below.

It is further noted that the rejection made by the Examiner is not clear to the undersigned. Claims 1-3, 17 and 18 have been rejected under 102(b) as being anticipated by Bellati et al. (U.S. Patent No. 6,058,946) in view of either Yaeger et al. (U.S. Patent No. 4,490,975) or Johnson (U.S. Patent No. 4,965,545). However, a claim is anticipated only if each and every element is found in a single prior art reference (see MPEP 2131). The Examiner correctly recognizes that Bellati et al. fail to include a shape memory wire that is activated by electric current. However, the Examiner points to Yaeger et al. and Johnson as solving the deficiency of Bellati et al. Even so, it is respectfully argued that this combination of references under a 102 rejection does not fall under one of the exceptions for using multiple references under a 102 rejection as set forth in MPEP 2131.01. Accordingly, it is respectfully argued that the multiple reference 102 rejection is improper. Nevertheless, the following arguments are made to argue over the proposed combination whether under a 102 rejection or a 103 rejection.

The undersigned is also not clear if claims 3, 4, 20 and 21 were intended to be included in the rejection. These claims are not set forth as being rejected under the 102 rejection, but the Examiner makes reference to these claims in the body of the rejection. Clarification as to the status of claims 3, 4, 20 and 21 is respectfully requested.

It is yet further noted that the status of claims 14 and 15 is not clear. Nowhere in the Office Action does the Examiner address claims 14 and 15. Thus, clarification as to the status of claims 14 and 15 is respectfully requested.

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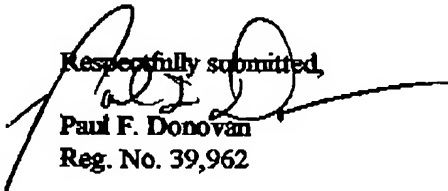
In regards to the proposed combination of Bellati et al. with Yaeger et al. or Johnson, it is respectfully argued that the suggested combination is improper. The memory spring (366) of Bellati et al. is adapted to expand upon the application of heat. Contrary to the device of Bellati et al., the shape memory wire of Johnson contracts upon the application of heat, and the shape memory spring of Yaeger et al. also contracts upon the application of heat or electrical current. Thus, one of ordinary skill in the art would not modify the device of Bellati et al. with the device of Yaeger et al. or Johnson because to do so would render the device of Bellati et al. non-functional. Thus, for at least these reasons, the claims are patentable over the proposed combination of the cited references.

Since there are allowable generic claims, the withdrawn claims are also allowable and should be considered.

No new matter has been added by way of the remarks made herein. Reconsideration and allowance of all the remaining pending claims are respectfully requested. Considering the uncertainty with respect to the rejection and the status of all the claims, in the event that the Examiner does not find all of the claims to be in condition for allowance, it is respectfully argued that the next Office Action should not be made Final so as to provide the applicants an opportunity to address all of the claims at least once before a Final Office Action is mailed. If there are any other issues that can be expeditiously handled by telephone conference, the Examiner is invited to telephone the undersigned at the number indicated below.

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Respectfully submitted,


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